

**A G R E E M E N T**

**Between**

**CITY OF MIAMI BEACH, FLORIDA**



**and**

**COMMUNICATIONS WORKERS OF AMERICA (CWA)**

**LOCAL 3178**



**Period Covered**

**October 1, 2012 to September 30, 2015**

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## AGREEMENT

THIS AGREEMENT, was made and entered into on this 19th day of July, 2013 by and between the CITY OF MIAMI BEACH, FLORIDA (herein called the "City"), and the COMMUNICATIONS WORKERS OF AMERICA (herein called the "Union").

## **P R E A M B L E**

WHEREAS, the Union has been selected as the sole and exclusive bargaining representative by a majority of the employees set forth in Article 1, and has been recognized by the City pursuant to the laws of Florida as the sole and exclusive bargaining representative for said employees;

WHEREAS, the City and the Union have voluntarily endorsed the practices and procedures of collective bargaining as a fair and orderly way of conducting relations between the City and the employees covered by this Agreement insofar as such practices and procedures are appropriate to the obligations of the City to retain the right effectively to operate the various departments of the City and are consonant with the paramount interests of the public;

WHEREAS, it is the intention of the parties to this Agreement to provide, where not otherwise mandated by Statute, for the salary schedule, fringe benefits and conditions of employment of the employees covered by this Agreement, to provide for the continued and efficient operation of the various departments of the City, and to provide an orderly and prompt method of handling and processing grievances;

NOW, THEREFORE, the parties agree with each other as follows:

**ARTICLE 1**  
**RECOGNITION**

**Section 1.1. Representation and Bargaining Unit.** - The City recognizes the Union as the sole and exclusive representative of all employees in the unit described below.

**Section 1.2 Unit Description.** - All regular, full-time employees in the following classified job descriptions, excluding all managerial, supervisory, confidential, temporary, and casual employees, and employees currently represented in other certified bargaining units:

Account Clerk I	Engineering Inspector
Account Clerk II	Field Inspector I
Account Clerk III	Field Inspector II
Administrative Aide I	Finance Specialist I
Administrative Aide II	Finance Specialist II
Administrative Assistant I	Finance Specialist III
Administrative Secretary	Lifeguard I
Air Conditioning Mechanic	Lifeguard II
Building Inspector	Lifeguard Lieutenant
Buyer	Mason
Carpenter I	Masonry Helper
Carpenter II	Mechanical Inspector
Clerk	Meter Analyst
Clerk Typist	Painter
Code Compliance Administrator	Parking Dispatcher
Code Compliance Officer I	Parking Enforcement Specialist I
Code Compliance Officer II	Parking Enforcement Specialist II
Commission Reporter I	Parking Meter Technician I
Commission Reporter II	Parking Meter Technician II
Communications Operator	Permit Clerk I
Complaint Operator II	Permit Clerk II
Crime Analysis Specialist	Planning Technician
Crime Scene Technician I	Plumber
Crime Scene Technician II	Plumbing Inspector
Data Entry Clerk	Pool Guard I
Dispatcher	Pool Guard II
Dispatcher Trainee	Police Fleet Specialist
Duplicating Equipment Operator	Police Photographer
Electrical Inspector	Police Records Technician
Electrician	Property Evidence Technician I
Elevator Inspector	Property Evidence Technician II
Engineering Assistant I	Public Safety Specialist
Engineering Assistant II	Revenue Processor I
Engineering Assistant III	Revenue Processor II

### **Section 1.3 Job Classifications/Audits.**

- a) The City and the Union agree that in the event the City creates a new job classification within the bargaining unit, or substantially changes the duties of a job classification which remains within the bargaining unit, or combines job classifications within the bargaining unit as a result of job audits, or market studies, the City will bargain with the Union concerning the appropriate rate of pay for the new, changed, or combined jobs. However, in no event, will the position be paid at a lower rate of pay or at a lower classification.

Until agreement is reached or impasse is resolved, affected employees will be paid as determined by the City. Upon agreement as to the rate of pay for the new, changed, or combined job(s), the agreed rate shall be retroactive to the date that the City filled the positions.

- b) The parties agree that they will periodically review the job classifications and, if appropriate, file a joint petition to Public Employees Relation Commission (PERC) to determine which positions should be in or out of the bargaining unit.
- c) The City recognizes the life safety work that Lifeguard I, Lifeguard II and Lifeguard Lieutenants perform is of a public safety service nature, however, the parties further agree and understand that there is no assumption of additional compensation or benefits based on this recognition.
- d) The City will conduct and complete a job classification audit of the Building Inspector classification.

**ARTICLE 2**  
**EMPLOYEE AND UNION RIGHTS**

**Section 2.1 Employee Rights During Meetings or Interviews.**

- a) An employee shall be entitled to request Union representation at all meetings where the representative of the City intends to seek to gain information from the employee which may become a part of the written disciplinary record or may result in a written warning/reprimand of the employee.
- b) The employee shall be informed of the nature of the meeting, the alleged conduct, and if requested, be given a reasonable period of time prior to the meeting to contact and consult with the Union. Nothing contained herein shall preclude an employee from legal representation in the event of a criminal investigation.
- c) At the request of the employee, the City will advise the Union President of all such meetings with the employee and the Union President will arrange to have a Union Representative present.
- d) All meetings will be held in the City at a reasonable hour during the employee's shift or contiguous to the shift on the clock, unless an emergency or serious condition prevents such action.
- e) This provision of Article 2, Section 2.1 shall be subject to the Union Time Bank as described in Section 4.8.

**Section 2.2 Notice of Disciplinary Action.**

- a) No reprimand, termination, suspension, demotion, punitive transfer, or punitive reassignment which results in loss of pay shall be taken against an employee unless he/she is notified of the action, and the reason(s) for such recommended action given in writing specifically prior to the action. Notice in writing shall be given to the employee as soon as practicable.

- b) If such disciplinary action is taken against any employee which results in loss of pay or monetary benefits or denial of annual merit increase, Management will adhere to progressive discipline:

Written "verbal warnings" shall be kept in departmental or Human Resources files. If the employee is not disciplined for the same incident again during a calendar year, the written "verbal warning" shall not be used for his/her Annual Performance Evaluation report.

- c) The employee must have received a Special Report during the evaluation period informing him/her of the less than satisfactory performance and what action should be taken for improvement. A copy of the Special Report must be submitted with the Annual Evaluation Report.
- d) The employee must have received a warning during the evaluation period at least sixty (60) but no more than ninety (90) days prior to an employee receiving a less than satisfactory performance. If the unsatisfactory work performance occurred prior to ninety (90) days before the anniversary increase was due, the warning must state what action the employee must take to correct the unsatisfactory performance. A copy of the warning shall be submitted with the Annual Evaluation Report.
- e) Nothing in this section shall be intended to contravene public record law.
- f) Annual merit increases are not automatic and may be denied.

The employee's Department will be responsible for monitoring the progress or lack of progress on the employee's effort to correct the problem which led to the unsatisfactory rating. Such follow-up shall be every ninety (90) days after the corrective process commenced. Upon correction of the problem, the employee will be granted the annual increase.

**Section 2.3 Retaliation for Exercising Rights.** - No employee, supervisor or management person shall be retaliated against or be threatened with any such retaliation by reason of his/her exercise of any rights set forth in this Agreement.

**Section 2.4 Union Membership-Right of Union to Represent Only Members.** - The City and the Union agree not to interfere with the right of employees to become or not become members of the Union, and further, both parties agree that there shall be no discrimination, interference, restraint, or coercion against any employee because of Union membership or lack of it; except that the Union may process grievances for, advise, or participate in meetings or interviews on behalf of members only. Human Resources will inform the Union of new hires on a monthly basis.

**Section 2.5 Access to Personnel Records.** - Upon reasonable request, an employee shall have the right, in the presence of an appropriate representative of the employer, to review and copy all or any portion of the employee's official records which are or may become a part of the personnel file maintained by the Human Resources Department and his/her department. The employer may charge a reasonable fee of fifteen cents (\$.15) per page for such copying. Employees will be provided with a copy of records or letters that are to be placed in the employee's Personnel File maintained in either Human Resources or in the Department personnel file, which make specific, derogatory comments about the employee's work performance. This shall be done by the Department prior to the filing and the employee shall be asked to sign his/her acknowledgement. The employee shall be allowed to place in his personnel file a response of reasonable length to anything contained therein which the employee deems to be adverse. No anonymous material shall be placed in an employee's personnel file.

It is specifically understood that this provision shall not in any way alter or modify the Personnel Rules concerning tests or examinations and the period of time which an employee has to review tests or examinations which he/she has taken.

**Section 2.6 Employee Bargaining Team.** - The City agrees that the Union shall be permitted up to five (5) employees to serve on a collective bargaining team in any collective bargaining negotiations with the City, and that such persons shall be compensated at their regular salary when negotiations are during regular working hours. The Union may appoint alternates who shall be compensated instead of regular members of the collective bargaining team for those periods of time when they actually serve on the bargaining team. Attendance at negotiations for a successor agreement shall not be counted against the union time bank.

**Section 2.7 Recording Devices.** - No mechanical recording devices of any kind shall be used in discussions between department heads, division heads, or supervisors and employees unless the parties mutually agree otherwise. It is specifically understood that this subsection shall not in any way apply to any City Board.

**Section 2.8 Computerized Voice Stress Analysis Examinations and Psychological Examinations.**

**A) Computerized Voice Stress Analysis Examinations**

- 1) A bargaining unit member may be required to submit to a computerized voice stress analysis test, or any other electronic examination, the purpose of which is to test the truthfulness of the employee when investigating a work place theft only when there is reasonable suspicion to believe that the employee is involved.
- 2) It is understood that bargaining unit members may be required to take a computerized voice stress analysis examination when such examination is a pre-condition of their initial employment with the City. A bargaining unit member may be required to take a computerized voice stress analysis examination for promotion, or transfer into a department that has required computerized voice stress analysis tests.
- 3) Such computerized voice stress analysis tests shall be conducted by an independent, professional examiner as selected by the City. Nothing contained in the Agreement shall abridge the rights of individual employees or the rights of the City under Florida law.

**B) Psychological Examinations**

At the City's request, the Union agrees to appear before the Personnel Board and jointly submit with the City a proposal to include a psychological examination for Lifeguard I applicants. Psychological examinations shall be in English and Spanish.

**Section 2.9 Employee Examination Review.** - An employee shall have the right in the presence of an appropriate representative of the employer to examine and/or review his/her own completed promotional examination as provided in Florida Statutes.

**Section 2.10 Meeting Leave.** - The Union shall have the right to send up to two (2) of the four (4) designated Union representatives, authorized with pay for time he/she would have otherwise been working, to attend City Commission Meetings, Personnel Board Meetings, or Pension Board Meetings, when a matter relating to the collective bargaining agreement is on the Agenda for such meeting, and if prior approval has been given by the representative's supervisor. The representative is to return to work immediately after the City Commission addresses the Agenda item. This section shall be subject to the Union Time Bank in Section 4.8.

**Section 2.11 Information To Be Provided To Union By City.** - The City will provide to the Union one (1) copy of the following:

- a) A listing of all bargaining unit employees on a disk and hard copy to include the employee's name, address, I.D. number, department assignment, and date of hire, except where such information is exempt from the definition of public records as established by Florida Statutes 119.07 (3) (i).
- b) The "Personnel Rules" of the City of Miami Beach.
- c) "Classification Specifications" for all bargaining unit classifications.
- d) "Agenda" (as distributed to all department heads and news media) for each City Commission Meeting.
- e) Salary Ordinance amendments affecting bargaining unit classifications.

**ARTICLE 3**  
**DEDUCTION OF UNION DUES**

**Section 3.1 Check-off.** - Upon receipt of a lawfully executed written authorization from an employee, which is presented to the City by an official designated by the Union in writing, the City agrees during the term of this Agreement to deduct the uniform Union dues and assessments of such employees from their pay and remit such deductions to the Union Treasurer; provided, however, that such authorization is revocable at the employee's will upon thirty (30) days' written notice to the City and the Union. The Union will notify the City thirty (30) days prior to any change in its dues and assessments structure.

The Union shall pay, during the term of this Agreement, the amount of two hundred dollars (\$200) annually as a service charge for implementing and processing the above-stated dues and assessments deductions. The Union shall make the payment on or before April 1 of each year of the Agreement.

The Union and the City agree to develop an electronic/magnetic media reporting system for deduction of dues within six (6) months of ratification of the contract.

**Section 3.2 Indemnification.** - The Union agrees to indemnify and hold the City harmless against any and all claims, suits, orders or judgments brought against the City under the provisions of this Article; provided, however, this Section shall not apply to any act or failure to act on the part of the City resulting from its own willful behavior. In the event of an error in dues deductions, transfer should be transmitted thirty (30) days after written notification.

**ARTICLE 4**  
**GRIEVANCE PROCEDURE**

**Section 4.1 Purpose** - It is recognized that complaints and grievances may arise between the bargaining agent and the employer or between the employer and any one or more employees concerning the application or interpretation of any provision of this Agreement. The employer and the bargaining agent desire that these grievances and complaints be settled in an orderly, prompt and equitable manner so that the efficiency of the City of Miami Beach may be maintained and the morale of employees not be impaired. Every effort will be made by the employer, employees, and bargaining agent to settle the grievances at the lowest level of supervision. The initiation or presentation of a grievance by an employee will not adversely affect his standing with the employer.

No reprisals of any kind will be made by agents of the City against the grievant(s) or the Union's representatives by reason of such participation in the processing of their grievance. Similarly, the Union, its officers or agents, shall not impede, malign, or delay the City or management's representative in their duties during the investigation or processing of said grievance.

In order to investigate, discuss and process grievances, the designated Union representatives and witnesses must request permission 24 hours in advance (except in emergencies), and report their return to work upon conclusion of the use of time for grievance matters. All such time away from work by Union representatives shall be deducted from and is subject to the Union's Time Bank. Bargaining unit employees covered by this Agreement shall no longer be able to file an appeal via the City's Personnel Board procedure for any disciplinary matter.

**Section 4.2 Definitions.**

- a) **Grievance** - a grievance is a dispute involving the interpretation or application of any provision of this Agreement, excluding matters not covered by this Agreement or where Personnel Board rules and regulations are involved; provided, that disciplinary actions, including discharges, but not including verbal warnings, may be grieved under this Article further provided that the reasonableness of new or changed work rules and whether there has been reasonable application of old or new work rules and lay-off provisions of the Personnel Board's rules and regulations, may be grieved under this Article. The reasonableness of work rules which were negotiated is not grievable.

- b) Aggrieved Employee(s) - the employee(s) filing the grievance or causing the grievance to be filed.
- c) Immediate Supervisor - the individual having immediate supervisory authority over the aggrieved employee(s).
- d) Division Head - the head of the division in which the aggrieved employee(s) works.
- e) Department Head - the head of the department in which the aggrieved employee(s) works.
- f) Days - as referred to in the time limits herein, days shall mean working days (i.e., Monday through Friday, exclusive of scheduled holidays).

#### **Section 4.3 Special Provisions.**

- a) The time limits set forth herein may be extended and/or modified by mutual written agreement.
- b) If the employer violates any time limits, the bargaining agent may advance to the next step without waiting for the employer's response. If the Union, or the grievant(s) fail to initiate or move the grievance to the first or next step of the grievance procedure, as set forth herein (time limits), it shall be untimely and considered withdrawn.
- c) The parties acknowledge that, as a principle of interpretation, employees are obligated to work as directed while grievances are pending; except where the safety of a working condition or health of the employee(s) is the basis of the grievance.
- d) Aggrieved employees, a reasonable number of employees, not to exceed three (3), called as witnesses, and a specifically designated Union representative, shall be allowed to be present at the various formal steps of the grievance procedure, including arbitration. One witness may attend without loss of pay for those actual hours during his/her regular work schedule. Any other witnesses, not to exceed two (2) in total, may attend provided that there is adequate time to cover such work time in the Union Time Bank. The Union shall notify the City Manager's designee for Labor Relations of who it

wishes to call, and then Management will schedule the witnesses to be available as needed. If there are circumstances where more than three (3) witnesses are needed, the Union will make a request to the City Manager's designee for Labor Relations, who will make the final decision.

- e) The Union shall designate to the City the names of the seventeen (17) Union representatives, plus one individual who shall be designated as the Chairman of the Grievance Committee, whose function shall be to assist unit members in the processing of complaints and grievances under this procedure. At Step I only one (1) of the designated Union representatives will be allowed at any grievance meeting. At Step II & III, only two (2) of the designated Union representatives will be allowed at any grievance meeting. All such attendance time shall be deducted from and subject to the Union's Time Bank as set forth in Section 4.8, including, but not limited to, the specification of representation by four (4) members of the executive board.
- f) City of Miami Beach employees other than those designated Union representatives (as set forth in Section 4.8) shall not be granted time off from work without loss of pay for the processing of grievances.
- g) The specifically designated Union Representatives shall be permitted during working hours without loss of pay to investigate, discuss, and process grievances in their respective areas, provided the following conditions are met:
  - 1) that they first secure the permission of their immediate supervisor (such permission shall not be unreasonably denied);
  - 2) that the supervisor shall be notified twenty-four (24) hours prior to investigating, discussing, and processing grievances on City time (shorter notice may be given in the case of emergencies).
  - 3) that the representative will report his/her return to work to the immediate supervisor upon conclusion of the use of time for grievance matters; and
  - 4) there is sufficient time in the Union Time Bank to cover the entire period of the representative's absence from work.

- h) An employee may request Union representation in accordance with the provisions of this Agreement at each and every step of the grievance procedure set forth in this Agreement.
- i) The bargaining agent, in accordance with its own lawful internal rules, shall have the sole and exclusive right to determine whether any grievance warrants processing through this procedure. In the event the bargaining agent determines at any step of the grievance procedure that a grievance does not warrant processing, a written notification of that determination shall be sent to the City Manager's designee for Labor Relations. The employee(s) involved shall then be free to process it themselves or through legal counsel.
- j) If the bargaining agent has declined to process or further process any grievance presented to it, and if any employee, or group of employees, desires to process it or further process their own grievance through this procedure, the bargaining agent shall be sent copies of all written communications sent by the employer or the employee(s) involved. Further, nothing herein contained shall be construed to prevent any public employees from representing, at any time, their own grievance in person or by legal counsel to the employer, and having such grievance(s) adjusted without the intervention of the bargaining agent, provided however, that the adjustment is not inconsistent with the terms of the collective bargaining agreement then in effect; and provided further that the bargaining agent has been given notice and a reasonable opportunity to be present at any meeting called for the resolution of such grievances.
- k) The bargaining agent shall not be responsible for any costs attendant to the resolution of any grievance(s) it has not processed.
- l) The parties acknowledge that multiple grievances may be combined at any stage of the grievance procedure where the class of aggrieved employees is clearly defined and the subject matter of the grievances is the same or similar.
- m) At Step I, all formal grievances presented shall include the date of the alleged violation, the specific article and section grieved; a brief description of the grievance, and the remedy requested.

**Section 4.4 Grievances Involving Discipline.** - Discipline shall be only for just cause and shall include written reprimand, suspension, or dismissal. A verbal warning is not disciplinary and is not grievable. Any regular employee who is disciplined, and who has completed the required probationary period, may file a grievance pursuant to the provisions of this Article. The Union or employees not represented by the Union in a grievance or who are not members of the Union may file discipline grievances at either Step I or II within fifteen (15) days of the written notice of action.

**Section 4.5 Grievance Procedures:**

**STEP I**

- a) The grievance shall be filed within fifteen (15) days of the alleged violation, interpretation or application of the terms of employment set forth in this Agreement.
- b) The grievance shall be filed with the division head in writing, on the Grievance Form as attached in the appendix.
- c) The division head or his/her designee shall note the date of receipt of the grievance, and shall seek to meet the aggrieved employee at a mutually agreeable time within ten (10) days of receipt of the grievance.
- d) Within five (5) days of the meeting, the division head shall render a decision and shall immediately communicate that decision in writing to the aggrieved, the bargaining agent, and the department head. If the decision is to deny the grievance, the reasons for denial shall be specifically stated.
- e) The aggrieved employee(s) and/or the bargaining agent may appeal the decision of the division head within seven (7) days of receipt of the decision.
- f) The appeal shall be submitted in writing to the department head. Failure to appeal the decision of the division head within seven (7) days shall constitute acceptance by the aggrieved employee(s) and the bargaining agent of the decision as being a final resolution of the issues raised.

## **STEP II**

- a) If the aggrieved employee(s) appeals the decision, the department head shall schedule a meeting to take place at a mutually agreeable time not more than five (5) days after receipt of the appeal. The exclusive bargaining agent shall be advised in writing as to the date of the proposed meeting, and shall have the right to send one (1) observer to the proceedings if the bargaining agent is not involved in the actual representation of the aggrieved employee(s).
- b) Within five (5) days of the meeting, the department head shall render a decision and shall immediately communicate that decision in writing to the aggrieved employee(s), and to the bargaining agent. If the decision is to deny the grievance, the reasons for denial shall be specifically stated.
- c) The aggrieved employee(s) may appeal the decision of the department head within seven (7) days of receipt of the decision. The appeal shall be communicated in writing to the City Manager's designee for Labor Relations. Failure to appeal the decision of the department head within seven (7) days shall constitute acceptance by the aggrieved employee(s) and the bargaining agent of the decision as being a final resolution of the issues raised.

## **STEP III**

- a) If the aggrieved employee and/or a representative of the bargaining unit appeals the decision, the City Manager, or his/her designee for Labor Relations, shall schedule a meeting to take place at a mutually agreeable time not more than twelve (12) days after receipt of the appeal.
- b) Within twelve (12) days of the meeting, the City Manager or his/her designee for Labor Relations shall render a decision and shall immediately communicate that decision in writing to the aggrieved employee and the bargaining agent. If the decision is to deny the grievance, the reasons for denial shall be specifically stated.

- c) Failure to appeal the decision rendered in Step III within twelve (12) days by notice of intent to submit to arbitration shall deem the decision at Step III to be final and no further appeal will be pursued.

**Section 4.6 Arbitration.** - If the employer and the aggrieved employee(s) and/or the bargaining agent fail to resolve the grievance, the grievance may be submitted to final and binding arbitration by an impartial neutral mutually selected by the parties.

- a) Notice of intent to submit the grievance to arbitration shall be communicated in writing by the Union President or his designee to the office of the City Manager's designee for Labor Relations within twelve (12) days of the receipt of the decision at Step III. Any request to go to arbitration on behalf of the employer is to go to the Union President.
  
- b) Within thirty (30) days after written notice of submission to arbitration a request for a list of five (5) or seven (7) arbitrators shall be submitted to the Federal Mediation and Conciliation Service (FMCS). Both the City and the Union shall have the right to strike two (2) names from the panel of five (5) or three (3) names from the panel of seven.

The City and the Union agree to alternate as to who shall strike the first name. The arbitrator remaining on the panel after both parties have utilized their two (2) strikes from a panel of five (5) or three (3) strikes from a panel of seven (7) shall be the selected arbitrator. Upon receipt of the panel of arbitrators from the FMCS, the City and the Union shall have thirty (30) days to complete the striking process. The arbitrator shall be notified of his/her selection within five (5) days by a joint letter from the City and the Union requesting that he/she schedule a date and place for a hearing, subject to the availability of the City and the Union.

- c) Prior to the commencement of the arbitration, the arbitrator may hold a pre-hearing conference to consider and determine:
  - 1. the simplification of the issues;
  - 2. the possibility of obtaining stipulation of facts and documents that will avoid unnecessary proof;

3. such other matters as may aid in the disposition of the grievance;
  4. matters of jurisdiction or applicability.
- d) The arbitrator shall have no right to amend, modify, ignore, add to, or subtract from the provisions of this Agreement. He/she shall consider and decide only the specific issue submitted to him/her in writing by the City and the Union, and shall have no authority to make a decision on any other issue not submitted to him/her. The arbitrator shall submit in writing his/her decision within thirty (30) days following close of the hearing or the submission of briefs by the parties, whichever is later, provided that the parties may mutually agree in writing to extend said limitation. The decision shall be based solely upon his/her interpretation of the meaning or application of the express terms of this Agreement to the facts of the grievance presented. Consistent with this Section, the decision of the arbitrator shall be final and binding.
- e) In the event that an employee desires, on his/her own behalf, to process his/her grievance to arbitration, the bargaining agent reserves the right to intervene in the arbitration proceeding up to and including the full right to participation as a party.
- f) All arbitration costs, including the cost of stenographic reporting of the arbitration hearing if agreed to by the parties, shall be divided equally between the employer and the bargaining agent, or if the bargaining agent has determined not to process the grievance through arbitration, between the employer and the employee(s). Each party will pay the cost of presenting its own case.

**Section 4.7 Differences Concerning Personnel Rules.** - A difference of opinion with respect to the meaning or application of the Personnel Rules which directly affects wages, hours, or working conditions may be submitted by the employee or the Union President (or his/her designee) to the City Manager's designee for Labor Relations within ten (10) days after the occurrence of the event giving rise to the difference of opinion. The City Manager's designee for Labor Relations shall discuss the matter with the employee and the Union Representative at a time mutually agreeable to the parties. If no settlement is reached at this meeting, the employee retains his/her right to appeal to the Personnel Board under the statutory procedures governing such appeals.

**Section 4.8 Union Time Bank.** - The CWA represented by four (4) members of the Executive Board, as determined by the President, shall have the right to conduct union business (under the conditions described in this Section) through the use of a time bank. The Time Bank hours for the period covering October 1, 2012 through September 30, 2013 shall be 1,500 hours. Effective October 1, 2013, the Time Bank shall be 2,250 hours each contract year. Unused time bank hours from one contract year shall rollover to the next contract year, not to exceed a total maximum of 2,250 hours per contract year. No more than two (2) of the designated Union representatives may use time from the Union Time Bank at the same time. The President or designated union representative of the CWA shall provide a minimum of twenty-four (24) hours' notice to the appropriate Department Director or designee for any leave to be granted. Such leave shall not be granted unless previously approved in writing by the CWA President. Time for attendance at negotiations for a successor agreement is addressed in Article 2.6. of this Agreement. The time bank shall be used for union representation as outlined in Section 2.1, 2.10, and Article 4 of this agreement. All other union convention time other than union convention time referred in Section 8.22 shall be part of the Union Time Bank.

Representatives must return to work immediately upon conclusion of the meeting that was the reason for the approved Union time off. If the Union Time Bank is exhausted, no more paid time off to conduct union business on City time shall be requested, paid or approved. Attendance at a pension board meeting by a designated union representative as a pension board member shall not be counted against the union time bank.

**ARTICLE 5**  
**NO STRIKE AND NO LOCKOUT**

**Section 5.1 No Strike.** - The parties hereby recognize the provisions of Chapter 447, Florida Statutes, which define strikes, prohibit strikes, and establish penalties in the case of a strike and incorporate those statutory provisions herein by reference. The parties further agree that the City shall have the right to discharge or otherwise discipline any employee(s) who engage(s) in any activity defined in Section 447.203(6), Florida Statutes.

Accordingly, the Union, its officers, stewards and other representatives agree that it is their continuing obligation and responsibility to maintain compliance with this Article and the law, and to encourage and direct employees violating this Article or the law to return to work, and to disavow the strike publicly.

**Section 5.2 No Lockout.** - The City will not lockout any employees during the term of this Agreement as a result of a labor dispute with the Union.

**ARTICLE 6**  
**MANAGEMENT RIGHTS**

It is recognized that except as stated herein, it is the right of the City to determine unilaterally the purpose of each of its constituent agencies, set standards of service to be offered to the public, and exercise control and discretion over its organization and operations.

The Union recognizes the sole and exclusive rights, powers, and authorities of the City further include but are not limited to the following: to direct and manage employees of the City; to hire, promote, transfer, schedule, assign, and retain employees; to suspend, demote, discharge or take other disciplinary action against employees for just cause; to relieve employees from duty because of lack of work, funds or other legitimate reasons; to maintain the efficiency of its operations, including the right to contract and subcontract existing and future work; to determine the duties to be included in job classifications and the numbers, types, and grades of positions or employees assigned to an organizational unit, department or project; to assign overtime and to determine the amount of overtime required; to control and regulate the use of all its equipment and property; to establish and require employees to observe all its rules and regulations; to conduct performance evaluations; and, to determine internal security practices; provided however, that the exercise of any of the above rights shall not conflict with any of the express written provisions of this Agreement. The City agrees that, prior to substantial permanent layoff of bargaining unit members, it will advise the Union.

If, in the sole discretion of the City it is determined that civil emergency conditions exist, including but not limited to riots, civil disorders, hurricane conditions, or similar catastrophes, the provisions of this Agreement may be suspended by the City Manager or his/her designee for Labor Relations during the time of the declared emergency, provided that wage rates and monetary fringe benefits shall not be suspended.

Should an emergency arise, the Union President shall be advised as soon as possible of the nature of the emergency.

**ARTICLE 7**  
**HOURS OF WORK AND OVERTIME**

**Section 7.1 Purpose.** - This Article is intended to define the normal hours of work and to provide the basis for the calculation and payment of overtime.

**Section 7.2 Normal Workday.** - The normal workday shall consist of eight (8) or ten (10) consecutive hours of work, exclusive of the lunch period, in a twenty-four (24) hour period.

Subject to the above, the City shall determine all aspects of the scheduling of Ocean Rescue employees, including, but not limited to, the daily and weekly shifts of individual employees and/or group of employees (including the start and finish times of each shift and the start and finish times of individuals within a shift (staggered shifts)) and days off, provided that any change to scheduling is made consistent with notice and seniority requirements contained in this agreement when applicable.

The City may, on an as needed basis, supplement the Lifeguard workforce with such "temporary employees" as outlined in Section 9.6.

**Section 7.3 Normal Workweek.** - The normal workweek shall consist of forty (40) hours per week, and such additional time as may, from time to time, be required in the judgment of the City to serve the citizens of the City. The workweek shall begin with the employee's first regular shift each week. No schedule changes involving shifts or days off shall be made without at least ten (10) workdays' notice to the employees involved, provided that in an emergency, or other such reason justifying a temporary schedule change only, such notice as is practicable shall be given. The implementation of this provision shall not be arbitrary and capricious.

**Section 7.4 Overtime.** - It is understood that the City may require necessary and reasonable overtime for unit members. For all hours worked in excess of forty (40) hours during an employee's workweek, the City will pay the employee one and one-half (1-1/2) times the employee's straight time hourly rate of pay.

Only actual hours worked shall be considered for the purposes of computing overtime. For example, paid leave including but not limited to any Annual, Holiday, Sick, Family Medical Leave, Birthday, Floater, Bereavement, Compensatory Leave and Administrative Leave shall not be considered as time worked for the purpose of computing overtime.

The parties agree that should the same overtime provisions not be agreed to by AFSCME or GSA, there will be a reopener on this matter only.

For all hours worked on an employee's seventh consecutive workday within his/her workweek, the City shall pay two (2) times the employee's straight time hourly rate of pay, provided the employee has actually worked his/her full shift on each of the six (6) preceding workdays.

This provision shall not be applicable if a substantial number of employees are scheduled to work seven (7) consecutive workdays because of an emergency such as a hurricane. If an employee, scheduled to work, works more than his/her normal hours on a holiday, the excess hours shall be paid at the holiday rate.

**Section 7.5 Distribution of Overtime Work.** - Overtime shall be distributed as equally as practicable among employees in the same job classification in the same work section and area starting with the most senior employee, as per Section 9.14 Seniority, provided the employees are qualified to perform the specific overtime work required. Any overtime work required for a specific job classification within this unit, shall be offered to unit members first. In the event that no bargaining unit member accepts the overtime, the overtime may be offered to other qualified individuals outside of the bargaining unit.

The City will maintain the records of overtime work, including: the nature of the work, to what classification it is applied, to what employee(s) it was offered, who performed the work, how many hours were worked, and whether it was voluntary or required. The records will be updated monthly, maintained on a rolling 12-month basis, and posted. The records shall be made available electronically for employees to verify and check. Should any employee assert that he or she has not been offered a reasonably equitable number of overtime work hours for which he or she is qualified, he or she may bring such assertion to the attention of management. Should management determine that the employee's assertion is justified, then that employee shall be given the right of first refusal to all subsequent overtime work offers until reasonable equity is restored, without regard for seniority. If no employee accepts offered overtime work, the City may require an employee or employees to work the overtime. Should the overtime work arise from the continuation of work in progress, the employee performing the work may be required to complete it. In cases where the City requires that overtime work be performed, the overtime work will be assigned on a rotating basis in inverse order of seniority among employees holding the same classification, subject to the qualification of any individual employee to perform the work, within each shift.

**Section 7.6 Holiday Celebration and Pay for Working on Holiday.**

- a) Whenever any of the holidays listed in Section 8.3. Holidays, of this Agreement fall on a Sunday, the following workday shall be observed as the official holiday; whenever any of the above listed holidays occur on a Saturday, the preceding workday shall be observed as the official holiday. In such cases, the day on which the holiday is observed shall be considered to be the paid holiday and not the regular day.
  
- b) To be eligible for a paid holiday, an employee must report for scheduled work on the holiday, on the last scheduled day preceding the holiday and the first scheduled day following the holiday unless such absences are excused. Excused absences are defined as:
  - 1) an employee calls in sick and is eligible to receive paid sick leave, and who is granted sick leave usage;
  - 2) approved annual leave;
  - 3) floating holiday;
  - 4) birthday.
  
- c) Failure to report for work on, before, after, or during the holiday after having been scheduled to work on such holiday shall be just cause for denial of holiday pay.
  
- d) A holiday which is observed during an employee's regularly scheduled workweek shall not be considered as time worked for the purpose of computing overtime, pursuant to Section 7.4, Overtime, herein.
  - 1. Should an employee not work on a holiday that falls on his/her regularly scheduled day off, he/she shall be paid eight (8) or ten (10) hours of holiday pay, depending on the number hours in his/her regular shift, at his/her straight time hourly rate.
  
  - 2. Should an employee work on a holiday that falls on his/her regularly scheduled work day, he/she shall be paid for the number of hours actually worked at his/her regular or overtime rate, whichever is applicable, plus eight (8) or ten (10) hours of holiday pay, depending on the number of hours in the employee's regular shift, at the regular rate.

3. Should an employee work on a holiday that falls on his/her regularly scheduled day off, he/she shall be paid for the number of hours actually worked at his/her regular or overtime rate, whichever is applicable, plus eight (8) or ten (10) hours of holiday pay, depending on the number of hours in the employee's regular shift, at the regular rate.

**Section 7.7 Rest Periods.** Employees may take a rest period of fifteen (15) minutes for each half day of work. Daily rest periods shall be scheduled by the supervisors. Whenever practicable, the rest period will be scheduled approximately mid-point in the first one-half of the employee's regular work shift and in the second half of the employee's regular work shift. Employees who extend their rest period may be subject to disciplinary action.

For each additional four (4) hours worked beyond the regular shift, an additional fifteen (15) minute rest period shall be provided. Employees in PSCU shall enjoy a fifty (50) minute meal break and a ten (10) minute rest period which, upon request of an employee and with the approval of the supervisor, will be combined into a sixty (60) minute meal break.

**Section 7.8 Reporting Pay.** – An employee who reports to work as scheduled will be guaranteed eight (8) hours of work or eight (8) hours of pay; (or, for those on ten-hour days, ten hours of work or ten of pay); provided, however, that supervisors may assign employees to perform any reasonable work.

**Section 7.9 Come Back Pay.** - An employee who is scheduled or called in to work outside of his/her normal hours of work will be guaranteed four (4) hours of work or four (4) hours of pay. It is understood that call-in pay does not apply to work which is contiguous to his/her regularly scheduled shift. Employees who are required to attend Court shall only be required to return to Division Headquarters if their Court appearance has been scheduled during their normal workweek.

**Section 7.10 Standby Time.** Employees assigned to standby shall receive two (2) hours per day of straight time as a standby bonus unless they receive comeback pay. Standby Pay shall be offered to employees in the same manner and conditions as in Article 7.5 Distribution of Overtime Work.

**Section 7.11 Clean-Up Time.** - At the end of the shift, skilled trades employees and members of the beach patrol and Pool Guards shall be allowed fifteen (15) minutes clean-up time; provided that they may also be required to perform other work tasks during such time if it does not interfere with clean up. However, Pool guards cannot leave the job site during this clean-up time.

**Section 7.12 No Pyramiding.** - Premium pay and overtime shall not be paid for the same hours. The employee shall receive the greater of the two alternative premiums.

**Section 7.13 Essential Personnel (Hurricane Pay).** When the City declares an emergency due to a named hurricane and other events and non-essential personnel employees are advised to stay home with pay and essential personnel employees are ordered to work, essential personnel employees shall be paid at the rate of one and one-half of their straight hourly wages for all hours worked for up to three (3) days.

**ARTICLE 8**  
**WAGES AND FRINGE BENEFITS**

**Section 8.1 Wages**

No bargaining unit member who left the City's employ prior to the date of ratification of this Agreement by the Commission will be eligible for any wages or benefits under this Agreement.

- a.) Effective the first (1<sup>st</sup>) full pay period ending in October 2012, there shall be no across-the-board wage increase for any CWA bargaining unit positions. Also, there shall be no increase to the minimums and maximums of each job classification range.
- b.) Effective the first (1<sup>st</sup>) full pay period ending in October 2013, there shall be no across-the-board wage increase for any CWA bargaining unit positions. Also, there shall be no increase to the minimums and maximums of each job classification range.
- c.) Effective the first (1<sup>st</sup>) full pay period ending in October 2014, there shall be a three percent (3%) across-the-board wage increase for any CWA bargaining unit positions. Also, there shall be a three percent (3%) increase to the minimums and maximums of each job classification range.

The City of Miami Beach classification and pay system will be utilized for all bargaining unit employees. Effective October 1, 2010, all classifications in the CWA Bargaining Unit shall be in the pay for performance pay system. This classification and pay system includes salary range changes, job audits, and market classification studies, but does not include cost-of-living increases. No change (to salary ranges, job audits or market classification studies) shall take place until the Union President or his/her designee concurs. No decision made within the context of this provision shall result in a lower grade, the removal of a job classification from the bargaining unit, nor shall said decision result in an exemption from FLSA overtime requirements.

Consistent with the classification and pay system, no employee's salary shall exceed, for any reason, the applicable maximum salary for the pay range of the employee's position.

There shall be no merit increases for any CWA bargaining unit employees in FY 2012/13.

Effective September 30, 2013, all CWA bargaining unit employees who receive a score of sixty (60) points or above on their annual evaluation, shall be eligible for a three percent (3%) merit increase on their anniversary date, provided that the employee's salary shall not exceed the maximum of the salary range for his/her position.

Effective September 30, 2014, all CWA bargaining unit employees who receive a score of sixty (60) points or above on their annual evaluation, shall be eligible for a three percent (3%) merit increase on their anniversary date, provided that the employee's salary shall not exceed the maximum of the salary range for his/her position.

Effective September 30, 2015, all CWA bargaining unit employees who receive a score of sixty (60) points or above on their annual evaluation, shall be eligible for a two percent (2%) merit increase on their anniversary date, provided that the employee's salary shall not exceed the maximum of the salary range for his/her position.

If an employee's merit rating score does not qualify him/her for a merit increase, the employee may grieve the evaluation up to Step III under the provisions of this Agreement.

**Section 8.2 Shift Differential.**

Effective October 1, 2013, where a majority of an employee's regularly assigned shift hours fall between 11:00 p.m. and 6:30 a.m., the employee shall receive a shift differential of fifty five cents (\$.55) per hour for work performed after 11:00 p.m.

**Section 8.3 Holidays.** – (See Section 7.6) The following fourteen (14) days shall be considered as holidays but the City reserves the right to schedule work on the holidays:

New Years' Day, President's Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, the day following Thanksgiving, Christmas Day, Martin Luther King's Birthday, three (3) floating holidays, and the employee's birthday.

Employees shall become eligible for floating holidays and the birthday holiday upon completing six (6) months' continuous service with the City.

**Section 8.4 Bereavement Leave.** - In case of death in the immediate family of an employee, time off with straight-time pay will be allowed of two (2) scheduled work days off per death and four (4) scheduled work days off per death if the funeral is held outside the State of Florida. The immediate family shall be defined as father, mother, husband, wife, sister, brother, son, daughter, grandchild, grandfather, grandmother, mother-in-law, father-in-law, stepfather, stepmother, stepson, stepdaughter, or domestic partner as defined in the Domestic Partner Ordinance. Additional time off may be granted by the Department Head, in writing, chargeable to the employee's accrued sick or vacation leave. In such circumstances such additional sick leave shall not count against an employee for purposes of performance evaluations.

**Section 8.5 Rate of Pay When Working Out of Classification.** - An employee may be required to temporarily work out of his/her classification when directed by management. Temporarily is defined as an employee who is clearly and definitely performing the principal duties in a higher pay classification for more than one hour per day, and they shall not exceed 580 hours in a 12-month period, and shall be paid as follows, except at the sole discretion of the City Manager or his/her designee for Human Resources who may waive the 580 hour cap if in his/her judgment, it will best serve the needs of the City service:

- a) Out of class pay shall be distributed as equally as practicable among employees in the same job classification in the same work section.
- b) If he/she is temporarily working in a lower classification, he/she shall receive his/her hourly rate in his/her regular classification. Employees will not be assigned to lower classification work as punishment or to demean the employee.
- c) If he/she is temporarily working for one or more consecutive hours in a higher paying classification, he/she shall be paid an hourly rate of one dollar (\$1.00) per hour to be added to the employee's straight-time rate of pay.

Employees being trained with on-site supervisory assistance in a bona-fide training program for a higher paying classification will be paid their current rate in their regular classification during such training time.

**Section 8.6 Asphalt License Training and Certification.** At the sole discretion of the Public Works Director, qualifying employees shall be offered training to obtain an asphalt license certification. The appropriate certification level for training shall be determined at the sole discretion of the Public Works Director.

**Section 8.7 Voting Time.** Given the availability of alternatives such as absentee ballots and early voting, the past practice of allowing paid time off for voting shall be discontinued.

**Section 8.8 Meal Allowance.** - An employee who works three (3) consecutive hours or more of pre-shift or post-shift overtime shall be paid \$7.00 unless meals are provided by the City. Employees shall receive compensation within three (3) months.

In the event employees are supplied with a meal while working the overtime hours, the meal allowance, as provided under this Section, shall cease.

**Section 8.9 Jury Duty.** The City of Miami Beach shall permit employees either to keep payments received from courts of competent jurisdiction for being on duty, or in the alternative, their standard rate of pay, whichever is higher. For each day an employee is called to jury duty, he/she shall be excused from work for such time as is necessary to complete jury duty services. If three (3) or more hours are left in the employee's work shift upon release from jury duty, the employee shall immediately contact his/her immediate supervisor for instruction.

**Section 8.10 Tool Allowance.** Employees in those classifications who are required to provide their own personal tools as part of the job duties shall be entitled to a \$17.50 per pay period for the purchase of new/replacement tools.

**Section 8.11 Uniform Provision.** Persons employed in all divisions, including the Public Safety Communications Unit (PSCU), who are compelled to wear City-issued uniforms shall be provided with six (6) uniforms.

Lifeguards and full-time pool guards shall be provided with one (1) sweat suit per year, and a winter jacket every five (5) years. Six (6) long sleeved/short sleeved shirts or any combination thereof shall be offered to Lifeguard I, II, Lieutenant, Pool Guard I, II, to further protect them from the dangerous ultra-violet rays.

On a one-time basis only, all regular, full-time Lifeguard I, Lifeguard II and Lifeguard Lieutenants shall be issued one (1) pair of dress pants, one (1) Class A shirt and one (1) badge. Lost, damaged or stolen badges shall be replaced at the employee's expense. Worn dress uniforms shall be replaced at the City's expense, but no sooner than once per year.

Uniforms shall be issued on the following schedule:

- a) All other uniforms (except the Class A dress uniforms for Lifeguards) shall be delivered to the employees in the month of January of each year.

Sponsorship: In the event that the City enters into an agreement with any outside sponsor concerning uniforms that may be issued to any employee(s) (but not necessarily all employees) who are in the bargaining unit, these sponsored uniforms may be issued to satisfy the contractual uniform obligations. No additional contract obligations concerning uniforms are hereby created and such sponsored uniforms may be discontinued at any time by the City.

### **Section 8.12 Insurance.**

- a) Effective at the beginning of the first full health insurance plan year, or as soon as practicable, after (and only if) this multi-year Agreement is ratified by both parties, the City shall offer medical, dental, and life insurance benefit plans to full-time bargaining unit employees and their legal dependents, as set forth in this section (a, b and c) during the term of this Agreement. The City will continue to pay at least fifty percent (50%) of the premium cost for eligible employees and their dependents. The City will offer alternative plans as options for employees. The City may change insurance carriers and/or the scope and level of benefits in any plan. The City also may change the percentage of premium cost paid by the City (i.e., provided that it remains at least 50%) from year to year for any one or more of the optional plans available, depending upon the scope and level of benefits available in each of the optional plans.
- b) The City agrees that it will not change the level of benefits during the term of this Agreement without first consulting with the Group Insurance Board, or a labor-management advisory committee created as a substitute for such Board, such attendance shall not be counted against the Union Time Bank. The designated Union representative may serve on this Board/committee for as long as bargaining unit employees participate, exclusively, in the City's group health insurance plan. In the event that the City materially reduces the scope and level of benefits in the current base (PPO or HMO) plan then the Union may request post-implementation impact bargaining.
- c) Employees in the bargaining unit shall be eligible to participate in the City's flexible and voluntary benefits plans, which may be modified by the City from time to time. The flexible and voluntary benefits plans shall be administered by the City.

**Section 8.13 Pension.** General Provisions: Should the actuary for the Miami Beach Employees' Retirement Plan confirm that the City's actuarial required contribution is 23.5% of pensionable payroll, then the additional two percent (2%) employee pension contribution levied

for all bargaining unit members hired prior to November 27, 2010 shall be eliminated. This confirmation must be provided in writing through the annual actuarial valuation report provided by the actuary for the Miami Beach Employees' Retirement Plan.

Effective upon ratification of this Agreement, for employees hired prior to February 21, 1994, who participate in the MBERP, the employee pension contribution shall increase by 2% of pensionable earnings, from 10% to 12% of pensionable earnings. Effective upon ratification of the 2009-2012 Agreement, for employees hired on or after February 21, 1994, who participate in the MBERP, the employee pension contribution shall increase by 2% of pensionable earnings, from 8% to 10% of pensionable earnings.

**Promoted employees may remain in Classified Plan.**

The pension plan will provide that in a case where an employee who is thereafter promoted to a position that is in the unclassified pension plan, the promoted employee may elect to stay in the classified pension plan.

The Miami Beach Employees' Retirement Plan (MBERP) is the pension plan for CWA bargaining unit members, except for those employees who previously elected to remain in the 401-A retirement program (in lieu of participating in the City's pension plan). The current benefits and member contributions provided by the MBERP shall remain in effect for the term of this Agreement, except as follows:

**10% Cap on Overtime for Plan Members Hired before February 21, 1994**

For those employees in the Miami Beach Employees' Retirement Plan (MBERP) who were hired before February 21, 1994, overtime included in pensionable earnings received after the effective date will be limited to a maximum of 10% above the employee's highest pensionable compensation, if applicable each year. Upon reaching the 10% maximum cap within a fiscal year, any additional overtime earnings in that year shall not be subject to the pension contribution.

**Two Year Previous Service Purchase Option**

The two year previous service purchase option shall be eliminated as of September 30, 2013, for all CWA bargaining unit employees. Elimination of the two year previous service purchase option is subject to the agreement of a similar provision by at least one of the remaining two general employee bargaining units that participate in the Miami Beach Employees Retirement Plan (MBERP), in the terms of their respective successor collective bargaining agreements.

### Partial Lump Sum Distribution

A member who retires under normal retirement (as that term is defined by the GERS) shall be allowed to convert 25% of the actuarial value of his/her pension benefit into a lump sum distribution. For example, if the normal retirement benefit is equal to \$2,000 per month, the member may either receive \$2,000 per month or the combination of \$1,500 per month plus a single lump sum equal to the actuarial value of the other \$500.

This lump sum option shall not be available to early retirees, disability retirees, or beneficiaries receiving pre-retirement death benefits.

The lump sum shall be calculated using the same discount rate and mortality rates used in the most recent Actuarial Valuation Report for the GERS.

### Final Average Monthly Earnings (FAME)

The City and Union agree to change the creditable service component of the formula for calculation of the FAME for current members from two (2) highest paid years of creditable service to the five (5) highest paid years of creditable service as described below:

- a) For those employees who participate in the MBERP and are at normal retirement age or are 24 months or less from normal retirement age, as defined by Ordinance 2006-3504 as amended, as of September 30, 2010, the Final Average Monthly Earnings (FAME) is at one-twelfth (1/12) of the average annual earnings of the employee during the two (2) highest paid years of creditable service.
- b) For those employees who participate in the MBERP, and who are between 24 and 36 months from normal retirement age, as defined by Ordinance 2006-3504 as amended, as of September 30, 2010, the Final Average Monthly Earnings (FAME) means one-twelfth (1/12) of the average annual earnings of the employee during the three (3) highest paid years of creditable service.
- c) For those employees who participate in the MBERP, and who are between 36 and 48 months from normal retirement age, as defined by Ordinance 2006-3504 as amended, as of September 30, 2010, the Final Average Monthly Earnings (FAME) means one-twelfth (1/12) of the average annual earnings of the employee during the four (4) highest paid years of creditable service.

- d) For those employees who participate in the MBERP, and who are more than 48 months from normal retirement age, as defined by Ordinance 2006-3504 as amended, as of September 30, 2010, the Final Average Monthly Earnings (FAME) means one-twelfth (1/12) of the average annual earnings of the employee during the five (5) highest paid years of creditable service.

#### Deferred Retirement Option Plan (DROP)

Subject to actuarial verification that extending the DROP period for employees hired prior to ratification of the 2009-2012 Collective Bargaining Agreement does not result in an increased cost to the City, effective July 1, 2013, all current and future employees participating in the DROP shall be entitled to participate in the DROP for a maximum period not to exceed 60 months in total. Any employee who previously executed a form entitling him or her to enter the DROP for a period of less than (sixty) 60 months in total shall be given a one-time irrevocable election, within 30 calendar days from the effective date of the conforming City ordinance amending the DROP period as set forth herein, to execute a new form extending his or her DROP period for up to 60 months in total.

Pending final ratification of this Agreement, any employee presently in the DROP whose DROP would end after July 1, 2013, but before the final ratification date of the Agreement or effective date enactment of the respective City ordinance amendment, shall be entitled to remain in the DROP program until the earlier of such time as the employee executes a new form with a revised DROP separation date, or 30 calendar days following the effective date of a conforming City ordinance implementing the DROP extension provided herein. Notwithstanding the foregoing, nothing herein shall preclude an employee who is presently participating in the DROP from their continued active employment and termination of employment in accordance with their original DROP separation date.

#### Bargaining Unit Members hired on or after the ratification of the 2009-2012 CWA Collective Bargaining Agreement

The current benefits and member contributions provided by the MBERP shall remain in effect for employees hired on or after the ratification of the 2009-2012 CWA Collective Bargaining Agreement, except as follows:

- 1) The normal retirement date is age 55 with at least thirty (30) years of creditable service, or age 62 with at least five (5) years of creditable service.
- 2) The early retirement date is the date on which the member's age plus years of creditable service equal 75, with a minimum age of 55.
- 3) The Final Average Monthly Earnings (FAME) shall be an average of the highest five (5) years of employment.
- 4) The benefit multiplier shall be two and one half percent (2.5%) multiplied by the member's years of creditable service, subject to a maximum of 80% of the member's FAME.
- 5) The retiree Cost of Living Adjustment (COLA) will be one and one half percent (1.5%) per year, with the first adjustment deferred to one (1) year after the end of the Deferred Retirement Option Plan (DROP).
- 6) The employee contribution will be 10% of salary.
- 7) The standard form of benefit is a lifetime annuity.
- 8) Members who separate from City employment with five (5) or more years of creditable service but prior to the normal or early retirement date shall be eligible to receive a normal retirement benefit at age 62.

#### **Reduction in Vesting Requirement for Employees Hired On or After February 21, 1994**

The minimum vesting requirement for pension plan members hired on or after February 21, 1994, is 5 years of service.

#### **Reduction in Normal Retirement Age for Employees Hired On or After February 21, 1994**

The normal retirement age for pension plan members is as follows:

- For members hired prior to February 21, 1994, the normal retirement age is 50.
- For members hired on or after February 21, 1994 but prior to September 30, 2010, the normal retirement age is age 55.
- For members hired on or after September 30, 2010, the normal retirement age is 62.

#### **Other Requirements and Conditions**

In order to be eligible for each of the above pension benefits, each employee must be actively employed on the effective date of the benefit and must thereafter retire. All of the foregoing pension changes shall apply prospectively, not retroactively. All other provisions of the MBERP plan not specifically addressed in this Agreement shall remain unchanged.

### **Retiree Health Insurance**

- a) The parties agree that any bargaining unit member who previously elected or who elects to participate in the 401-A retirement program (in lieu of participating in the City's pension plan) shall be required to work at least ten (10) years before becoming eligible for any retiree health benefits from the City.
  
- b) The parties agree that any bargaining unit member who is eligible for retiree health benefits from the City must make a one-time irrevocable election to continue receipt of health benefits via the City's plan at the time that the employee terminates City employment. The parties also agree that if a member initially elects to continue under City health insurance, but thereafter discontinues or is discontinued from such coverage, then the retiree may resume coverage only at their own expense, without any employer contribution whatsoever.
  
- c) Employees hired on or after February 2, 2006, will be entitled to a City contribution against the cost of continued health insurance coverage in the City's health insurance plan after retirement (or separation) from City employment, as set forth in this section. Any employee hired on or after this Agreement is ratified, who then remains employed until reaching eligibility for normal retirement, and who elects to continue insurance coverage under the City's health plan, shall upon receipt of normal retirement benefits also receive an additional separate supplemental monthly stipend payment in the initial amount of \$10.00 per year of credited service, up to a maximum of \$250.00 per month until age 65, and \$5.00 per year of credited service up to a maximum of \$125.00 per month thereafter. There shall be no other City contribution toward the cost of continued health insurance coverage for such employees and this benefit shall be paid only during the life of the retiree.

**Section 8.14 Vacation Benefits.** Consistent with applicable ordinances, the vacation benefits enjoyed presently by the employees covered by this Agreement shall continue.

### **Section 8.15 Sick and Vacation Leave Accrual and Maximum Payment on Termination.**

- a) Employees shall be entitled to twelve paid days a year due to illness for themselves or family members.
  
- b) The present policy concerning sick leave, including the policy for payment of accrued

sick and vacation time combined, up to a maximum of one year's salary, upon termination, retirement, or death, shall continue for all employees hired before October 1, 1978.

- c) All employees hired after October 1, 1978 shall, under applicable ordinances, rules, and regulations shall be allowed to accrue no more than 500 vacation hours effective October 1, 2006, and except in accordance with provisions for postponement of vacation leave as set forth in Article 8.14 of this Agreement; be permitted to transfer sick leave in excess of 360 hours to vacation leave at the rate of two days' sick leave to one day vacation leave to be used in the pay period year when transferred; be permitted a maximum payment at time of termination, death, or retirement of no more than 620 hours (effective upon ratification of this agreement) vacation leave and one half of sick leave to a maximum of 600 hours.

### **Section 8.16 Public Safety.**

#### **Public Safety Communications Unit (PSCU)**

- a) Persons hired into the classification of Dispatcher Trainee will receive a 3% increase after six (6) months of satisfactory service;
- b) Upon being certified by the Police Chief as being fully qualified to dispatch both Police and Fire calls, a Dispatcher will receive a three percent (3%) increase (in lieu of the prior one-step increase) while assigned to PSCU. The City can require employees to dispatch both Police and Fire calls. However, an employee hired before September of 1995 who is not already trained in both police and fire calls as of the April 8, 2002, can continue to dispatch either fire or police calls;
- c) Dispatchers, Communication Operators, and Complaint Operator II's who are designated as certified training officers shall receive one dollar per hour for all hours worked in a training capacity. All employees who express an interest and whose last performance evaluation was satisfactory shall be considered eligible for certification as a CTO. Generally, an employee without CTO certification shall not be required to perform in a training capacity unless a CTO is not available. However, if a Non-CTO is mandated to train, he/she will also receive the stipend.

**Section 8.17 Longevity Integration for Lifeguard I, Lifeguard II and Lifeguard Lieutenant**

Effective October 1, 2012, the maximum of the pay ranges for the Lifeguard II and Lifeguard Lieutenant classifications shall be extended by eleven percent (11%). The range for the Lifeguard I was extended upon ratification of the FY 2006/09 Collective Bargaining Agreement when the Pool Guard II range was extended to accommodate the elimination of the step plan and integrated the eleven percent (11%) longevity pay, as the classifications share a pay grade: h52.

Employees in the classifications of Lifeguard I, Lifeguard II and Lifeguard Lieutenant, whose longevity pay was eliminated from their compensation on September 30, 2012, shall have the equivalent dollar value of said longevity pay restored retroactively effective October 1, 2012. The equivalent dollar value of said longevity pay shall be added to the employee's base pay. This amount shall be the affected employee's base pay for the purpose of calculating any qualifying merit increases. Both parties agree that this provision shall only be applicable to those employees who were receiving a longevity pay supplement on September 29, 2012.

**Section 8.18 Perfect Attendance Bonus.** Employees who perform the full scope of their regularly assigned classification for each fiscal year shall receive a lump sum bonus of \$300.00 (non-pensionable earnings) provided that they have not used sick leave or been absent for any reason that was not authorized at least 48 hours in advance. An employee will also be allowed two (2) incidents of tardiness and one (1) emergency vacation. Employees out on ISC will not be eligible for the perfect attendance bonus. Religious/Sick and Bereavement/Sick shall not be counted against employees under this section.

**Section 8.19 Lead Person.** An employee in the Carpenter, Electrician, Painter, Plumber, and Air Conditioning Mechanic, positions in the Property Management Division will receive a five percent (5%) supplement for Lead pay if the following conditions are met:

- a) The employee is in charge of a construction project,
- b) The construction project consists of four (4) or more employees,
- c) The Lead Person will have three (3) years of experience in his/her position with the City of Miami Beach,
- d) The Lead Person will have most recent three (3) years of performance appraisals of 75 or above.

**Section 8.20 Union Conventions.** Two (2) delegates of the Union will be granted a leave of absence with pay, not to exceed two (2) weeks in any one year, for the purpose of attending State and International conventions. The Union will provide the City with the name(s) of the delegate(s) and provide the dates and locations of any such conventions for which a leave of

absence is requested six (6) weeks in advance of the convention so that the department can make appropriate arrangements. This time shall not be deducted from the Union time bank.

**Section 8.21 Orientation.** The union shall have the right to send two of the four designated Union representatives, authorized with pay pursuant to the Union Time Bank for time he/she would have otherwise been working to attend and participate in new employee orientation conducted by Labor Relations and Human Resources where bargaining unit members are present.

**Section 8.22 Educational Leave and Tuition Reimbursement.** The City's tuition reimbursement program shall be continued for the term of this Agreement.

**Section 8.23 Property Management License(s) Maintenance** – (Required continuing education/certification for current position) Employees in the Property Management Division who in order to maintain their licenses as required in their job descriptions, and have to attend continuing education classes shall be paid their straight hourly wages for all required hours up to 20 hours a year: provided that no additional pay shall be made to the employees if the training is provided by the City during regular work hours. Any hours spent attending training under this section shall count as hours worked.

**Section 8.24 EMT Certification.** Lifeguard I, Lifeguard II, Lifeguard Lieutenants, and Full-time Pool Guards who were receiving an Emergency Medical Technician (EMT) Certification Pay supplement on September 29, 2012, shall be eligible to receive the equivalent dollar value of the amount that they were receiving for said EMT Pay supplement retroactively effective October 1, 2012. Qualifying employees shall receive this pay supplement on a biweekly basis provided that they have continuously maintained their (EMT) certification by the State of Florida. This benefit shall be a flat-rate, non-compounding dollar value.

All Lifeguard I, Lifeguard II and Lifeguard Lieutenants employees hired on or after September 30, 2011 shall be required to have and maintain an Emergency Medical Technician (EMT) certification issued by the State of Florida prior to being hired by the City of Miami Beach but shall not be entitled to receive any EMT Certification Pay supplement.

**ARTICLE 9**  
**GENERAL PROVISIONS**

**Section 9.1 Discrimination.** - In accordance with applicable federal, state, and local law, the City and the Union agree not to discriminate against any employee on the basis of race, creed, color, religion, disability, sex, national origin, age, sexual orientation, marital status or political beliefs.

**Section 9.2 Meetings Between Parties.** - At the reasonable request of either party, the Union President, or his/her representative, and the City Manager's designee for Labor Relations, or his/her representative, shall meet at a mutually agreed time and place to discuss matters of concern. Whenever time permits, the party requesting the meeting shall submit written notice of the subject matter to be discussed. Such notice shall be submitted one week in advance of the proposed meeting date. Whenever the Union President, or his/her representative, makes suggestions or recommendations to the City Manager, or his/her designee for Labor Relations, specifically concerning productivity of job safety, the City Manager, or his/her designee for Labor Relations, will respond as appropriate.

**Section 9.3 Reduction in Work Force.** - When there is a reduction in the work force, employees will be laid off in accordance with their length of service and their ability to perform the work available. When two or more employees have similar ability, the employee with the least amount of service will be the first one to be laid off.

**Section 9.4 Work Rules.** - The City will provide the Union with a copy of any written rules that are instituted or modified during the term of this Agreement affecting employees in the bargaining unit. In the event the City desires to alter, amend, or modify existing written work rules, or promulgate new written work rules, the proposed changes will be submitted for review to a joint labor/management committee. The City shall have two (2) representatives and the Union shall have two (2) representatives on this committee, which will make recommendations to the City Manager. The proposed changes shall not become effective until a final decision of the City Manager has been rendered. No Personnel Rule, Work Rule or any other rule, or application thereof shall in any manner conflict with any provisions of this agreement, and such rules shall be reasonable.

**Section 9.5 Probationary Employees.** - A probationary employee who is dismissed without cause shall have the right to discuss with the appointing officer the reasons for such dismissal at a mutually agreed to time. Following such meeting, a probationary employee, if he/she so desires, shall have the right to further review the reasons for such dismissal with the City Manager or his/her designated designee for Labor Relations at a mutually agreed to time. It is expressly understood, however, that the appointing officer retains the exclusive discretion with respect to the retention or dismissal of probationary employees.

Periods of absence shall cause the probationary period to be extended for an equal amount of time. At the request of the appointing authority, the City Manager, or his/her designee for Human Resources may extend the probationary period for up to three (3) additional months provided that the reasons for extension are given to the employee in advance of the expiration of the initial probationary period. The City acknowledges the importance of giving timely performance appraisals and feedback to probationary employees.

**Section 9.6 "Temporary Employees".** - The City shall have the unrestricted right to hire up to one hundred (100) "temporary" employees in the bargaining unit, provided they are not hired at the detriment of the bargaining unit employees.

The number of temporary employees working in each Division shall not exceed 50% of the number of positions in that Division.

Temporary employees being utilized to fill in on short-term vacancies shall not be considered as a detriment to the bargaining unit's employees. Such "temporary" employees shall be paid at rates set in the sole discretion of management and a "temporary" employee's employment service may not exceed one (1) continuous year at any one time.

"Temporary" employees may not work in a classification wherein a permanent Civil Service employee is laid off. The Human Resources Department shall send the Union a report of "temporary" hires on a monthly basis. "Temporary" employees shall not be covered by Civil Service or Personnel Board Rules, and they shall serve at the will of their employer without right of appeal or access to the grievance procedure contained herein, and they shall not receive any fringe benefits or pension benefits. Terminated "temporary" employees may be re-hired if their separation is under honorable circumstances.

Regarding the implementation of the one hundred (100) temporary positions, it is understood that those positions were not limited to, but could be used to develop a cadre of employees who, on short notice, could serve as backup for regular employees or for such things as vacancies caused by absences due to maternity, military leave, sick leave, off-duty injury, on-duty injury, and work overload. The examples cited herein are not meant to be all inclusive.

It is further recognized that employees who retire "in good standing" who may be interested in working on a temporary, part-time basis, and should temporary work become available, the retired employees will have the opportunity to make application for one of the temporary positions. Such part-time positions shall not be covered by Civil Service rules or regulations, will have no fringe or pension benefits, and the salary shall be at a rate determined by the City. Further, the temporary employees shall not have a choice of picking schedules, but will be assigned by the City's management on an as needed, when needed, basis.

**Section 9.7 Political Activities of Employees.** - Except as provided by State law and City of Miami Beach Personnel Rule 1, (b), the City shall not make, adopt or enforce any rule, regulation or policy;

- a) Forbidding or preventing employees from engaging or participating in politics or from becoming candidates for public office;
- b) Controlling or directing or tending to control or direct the political activities or affiliations of employees.

It is understood that no political activities may be conducted by unit members during the employee's scheduled work day.

**Section 9.8 Safety.** - The City agrees to provide, at no cost to the employee, any appropriate safety equipment required to be worn or otherwise utilized by the employee. This shall include such items as hard hats, gloves, etc. Those employees issued such equipment will be responsible for such safety equipment, and any loss or damage due to the neglect of the employee may require the employee to pay for the replacement of said City-issued equipment.

- a) The City agrees to provide, upon request, up-to-date, non-glare screens for computer terminals.

- b) The City shall evaluate and provide, upon request, a wrist rest, which will help alleviate the stress upon the hands and arms of those employees performing repetitive motion, to all persons who type more than 50% of their workday.
- c) The City shall provide in each lifeguard stand a modern voice amplifier (bullhorn) to be used in providing safety.
- d) The City will agree to provide safety training to all Parking Enforcement employees as deemed appropriate by the City and Union.
- e) The Union is encouraged to have its members volunteer to serve on the Department Safety Committees that are being organized in each City Department. The bargaining unit member serving on the City's Safety Committees will not suffer any loss of benefits or wages for attendance at regularly scheduled meetings during regular scheduled work time. No overtime will be paid for attendance at such meetings.
- f) If there is a central, Citywide Safety Committee, the Union's President may be a member if he/she so requests.
- g) Upon request by an employee, the City Manager's designee for Risk Management shall audit the employees' work environment for correct ergonomic functionality and shall make reasonable and appropriate corrections.

Those employees issued such equipment will be responsible for such safety equipment, and any loss or damage due to the neglect of the employee may require the employee to pay for the replacement of said City-issued equipment.

**Section 9.9 Parking.** - The City shall provide seventeen (17) parking spaces at a lot comparable to Lot 11 for the exclusive use of on-duty Lifeguards. Such parking spaces shall be clearly marked. This Section may become moot if the Lifeguards are able to work out a reporting system that would allow them to proceed directly by their private vehicles to their respective lifeguard stands.

**Section 9.10 Glasses and Hats.** - The City agrees to reimburse Lifeguards and Pool Guards I and II for the purchase and/or repair of sunglasses up to a maximum allowable reimbursement of \$60.00 per employee in each fiscal year.

In order to be reimbursed, the employee must request a reimbursement, in writing, and attach a store receipt reflecting such purchase and/or repair.

**Section 9.11 Notification in the Event of Transfer or Contracting Out.** - When the City contemplates entering into a contract with an outside supplier or service agency to perform services presently being performed by the Bargaining Unit employees and such contract shall result in the lay-off of any bargaining unit employee, the City agrees that it will, upon written request, meet and discuss with the representatives of the Union the effect of such contract upon members of the Bargaining Unit.

If the City enters into such a Contract and, as a result thereof, an employee will be laid off, the City agrees to ask the Contractor to provide first consideration for such employee for any available work.

In the event that the employee is not employed by the Contractor, the City will offer such employee another available job with the City, if there is a budgeted vacancy and the employee affected by the subcontracting is qualified to perform. Questions of qualification to perform the job duties shall be decided in the sole discretion of the City Manager, or his/her designee for Human Resources.

If there are no jobs available, the Reduction in Force provision contained in this Agreement shall apply, provided that such laid-off employee shall be recalled to work before the City hires new, permanent employee to perform the work of the classification held by the employee at the time of the layoff.

This recall right shall exist for up to the individual's total service time with the City, but not to exceed two (2) years after the date of the person's layoff date, but such recall right shall cease as of two (2) years after layoff, or if the employee does not return to work as scheduled if he/she is offered a recall notice prior to the two (2) years.

It shall be the responsibility of the laid-off employee to notify the Human Resources Department when technical skills, training, and experience have been enhanced during the lay-off period, which may allow the individual to apply for another bargaining unit job with the City.

Nothing in this Section will be construed to limit the Union's right to bargain concerning the identified impact or effects of subcontracting out or transferring upon Bargaining Unit members.

**Section 9.12 Stress Reduction/Police Department's Public Safety Communications Unit -**

Those employees covered by this Agreement who work in the Miami Beach Police Department Communications Unit, will be given a stress reduction training program provided by the City. Such stress training will be a one-day stress seminar as given to sworn officers.

**Section 9.13 Bulletin Boards** - The Union may, at its own expense, place a bulletin board in each department, not to exceed approximately three feet by two feet (3' x 2') in size. The Bulletin Boards shall be used for posting the following notices only:

- a) Notices of Union Meetings.
- b) Notices of Union Elections.
- c) Reports of Union Committees.
- d) Recreational and Social Affairs of the Union.
- e) Any material of informational nature related to CWA.

Prior to posting, the material as described above shall be signed by an elected officer of the Union and submitted to the City Manager's designee for Labor Relations, for signature.

Materials, notices or announcements which contain anything political or controversial that might reflect upon the City, any of its employees, or any other labor organizations among its employees, or any materials, notices, or announcements which violate any of the provisions of this Section, shall not be posted.

Any materials that are posted which are not in conformance with this Section may be removed at the discretion of the City.

## **Section 9.14 Seniority**

- a) **Definition:** Seniority, for purposes of application of this Agreement except as otherwise stated is an employee's length of regular, full-time, continuous service with the City.

*Continuous* service refers to ongoing, unbroken service with the City. The parties agree that a voluntary resignation, retirement, or involuntary separation from employment with the City, such as termination for cause or a layoff, will interrupt continuous service and thus break that individual's seniority. The parties further agree that seniority is aggregated for all full time service only, even if an employee moves to part time status, so long as employment is regular and continuous. For example, if an employee works full time for five (5) years, is reduced to part-time status for six (6) months, and then resumes full time status for another six months, at the end of the six (6) years of employment that employee will have five and one half (5 ½) years of seniority.

*Regular* signifies the satisfactory completion of the probationary period following a probationary appointment or promotion and immediately preceding a regular appointment. Regular employment means ongoing employment of an indefinite nature and not work performed as a temporary employee, seasonal employee or independent contractor.

*Full Time* means an employee regularly scheduled to work no less than 40 hours a week as defined in Section 7.3, Normal Workweek, of this Agreement.

For the purposes of seniority, compensated leave time, including but not limited to vacation, bereavement and sick time, all ISC (Injury Service Connected) time, and all approved Family Medical Leave Act (FMLA) leave (paid or unpaid), shall be counted as "regular, full time, continuous" service upon the employee's return to his/her job. Any time that an employee is AWOL or on any other form of unpaid absence, including sick time during probationary period or unapproved leave shall *not* be credited toward an employee's "regular, full time, continuous" service.

- b) When vacations are scheduled, permanent vacancies or shifts are filled, promotions are made to a position within the bargaining unit, seniority shall apply when all other factors are equal. Seniority will not apply in an emergency situation.
- c) In the event of same day hiring, seniority rank shall be determined in the order of standing on the eligibility list.

**Section 9.15 Shoes.**

**Safety Shoes** - Employees in the following job classifications will be required to wear safety shoes during all working hours. Effective October 1, 2013, and each October thereafter, a safety shoe certificate will be provided to those employees in the following job classifications for the purchase of safety shoes meeting ASTM F2413-05 Federal Safety Standards.

Employees in the following classifications will make their safety shoe selection from a list of safety shoes, which will be developed by the Shoe Safety Committee comprised of two (2) Union representatives and two (2) Management representatives.

Air Conditioning Mechanic	Engineering Assistant I, II, III
Building Inspector	Mason
Carpenter	Masonry Helper
Carpenter II	Mechanical Inspector
Coin Room Money Handler	Painter
Electrical Inspector	Parking Meter Technician I, II
Electrician	Plumber
Elevator Inspector	Plumber Inspector

Reporting to work without the required safety shoes shall result in the employee being sent home without pay, immediately, for the balance of the day and may result in disciplinary action.

**Uniform Shoes** – Effective October 1, 2013, and each October thereafter, a shoe certificate will be provided to those employees in the following job classifications for the purchase of shoes. Those employees in the following classifications will make their shoe selection from a list of shoes, which will be developed by the Shoe Safety Committee comprised of two (2) Union representatives and two (2) Management representatives.

Code Compliance Administrator	Dispatcher Trainee
Communications Operator	Parking Enforcement Specialist I
Complaint Operator II	Parking Enforcement Specialist II
Crime Scene Technician I	Property Evidence Technician I
Crime Scene Technician II	Property Evidence Technician II
Code Compliance Officer I & II	Public Safety Specialist
Dispatcher	

Reporting to work without the required uniform shoes shall result in the employee being sent home without pay, immediately, for the balance of the day and may result in disciplinary action.

**Section 9.16 Labor/Management Committee.** - There shall be a four (4) member labor/management committee with two (2) members each appointed by the CWA President and the City Manager or his/her designee for Labor Relations. The committee shall meet at mutually agreed times to discuss matters of common interest such as critical incident debriefing, absenteeism control, etc. The labor/management committee is not a forum for collective bargaining or resolving specific grievances. Labor Management Committee meetings shall not count against the Union Time Bank.

**Section 9.17 Promotions.** - Within 120 days of the date the Agreement is ratified by the City, the Labor-Management Committee will meet to discuss selection procedures relative to promotions of bargaining unit employees to other bargaining unit positions.

**Section 9.18 Beach Patrol Promotions.** - The parties agree as follows:

- 1) To be eligible, applicants must attain and maintain Emergency Medical Technician (EMT) Certification prior to the promotional exam unless otherwise provided for in this Agreement.
- 2) During the first promotional opportunity for Lifeguard II and Lifeguard Lieutenant subsequent to ratification of this Agreement, applicants who are not EMT certified shall be eligible to apply for the promotional exam. If promoted, the employee shall have 12 months from his/her promotional date to obtain such certification. Should the employee fail to obtain his/her EMT Certification, the employee will not be eligible to retain regular status in the promotional classification nor will he/she be eligible to maintain his/her promotional rank. The employee shall be demoted to his/her previously held classification.
- 3) Eligible applicants for promotional exams shall be given a written and an oral examination.
- 4) Applicants must pass an ocean swim test under reasonably common conditions. Conduct of the swim test shall be monitored by Human Resources.
- 5) Applicants must have received at least a satisfactory evaluation in each element of their most recent performance review to be eligible to take the promotional examination.

- 6) The written tests shall be developed under the direction of Human Resources. The reading list for examination materials from which the questions are drawn will be set by the City Manager's designee for Human Resources after consultation with the Department Director and the Union. Any reading lists will be posted at least thirty (30) days prior to the administration of such tests. A copy of an examinee's graded answer sheet shall be furnished to the examinee upon completion of the grading, if requested. All challenges of questions on the written tests must be made in writing to the City Manager's designee for Human Resources within two (2) working days of the testing dates and he/she shall conclusively decide the challenge.
- 7) For the oral tests, questions shall be job related and evaluators shall use common criteria to assess the quality of candidates' answers and to determine scores. Final scores on oral examinations shall be the average of all scores made by evaluators.
- 8) Oral test evaluators shall be knowledgeable of the target position, shall include at least one person who is not a City employee, and shall be selected by Human Resources.
- 9) Promotional lists shall expire two (2) years after the posting of the results of a promotional test or where lists have been combined, two (2) years after the combining of the old and new lists.

**ARTICLE 10**  
**DRUG AND ALCOHOL TESTING**

**Section 10.1.**

The City and the CWA recognize that employee use of illegal substances, abuse and misuse of controlled substances, and alcohol abuse have an adverse impact on City government, the image of City employees, the general health, welfare and safety of employees, and the public at large. To demonstrate the commitment by the City and the CWA, employees shall be subject to random drug and alcohol testing, and reasonable suspicion testing.

Those employees who have a CDL license and are in the CDL Drug Testing Pool will not be a part of the CWA Drug Testing Pool since the employees who hold a CDL license are already being randomly tested.

All random and reasonable suspicion testing protocols shall comply with Title 49 Code of Federal Regulations, Part 40.

**Section 10.2.**

Using, selling, possessing or being under the influence of illegal drugs while on or off-duty is prohibited. Employees are further prohibited from consuming alcohol on-duty and/or consuming or abusing alcohol off-duty to the extent that such use and/or abuse may have an effect upon the performance of job functions.

The use of controlled substances is permitted only when prescribed by a licensed health care provider and properly used by the employee/patient. Misuse or abuse of prescribed controlled substances is prohibited.

If a test result for a controlled substance is positive, the employee shall be solely responsible for providing the Medical Review Officer (MRO) with the prescription number and the name and telephone number of the pharmacy where the prescription was filled. A new or back-dated unfilled prescription shall not be accepted.

The City's current 10-panel drug test and cut-off levels are as follows:

<u>Drug</u>	<u>Initial Test Level</u>	<u>GC/MS Confirm Test Level</u>
<u>Amphetamines</u>	<u>1000 ng/ml</u>	<u>500 ng/ml</u>
<u>Barbiturates</u>	<u>300 ng/ml</u>	<u>150 ng/ml</u>
<u>Benzodiazepines</u>	<u>300 ng/ml</u>	<u>150 ng/ml</u>
<u>Cocaine metabolites</u>	<u>300 ng/ml</u>	<u>150 ng/ml</u>
<u>Marijuana metabolites</u>	<u>50 ng/ml</u>	<u>15 ng/ml</u>
<u>Methadone</u>	<u>300 ng/ml</u>	<u>300 ng/ml</u>
<u>Methaqualone</u>	<u>300 ng/ml</u>	<u>150 ng/ml</u>
<u>Opiates</u>	<u>2000 ng/ml</u>	<u>2000 ng/ml</u>
<u>Phencyclidine</u>	<u>25 ng/ml</u>	<u>25 ng/ml</u>
<u>Propoxyphene</u>	<u>300 ng/ml</u>	<u>150 ng/ml</u>

In the case of an alcohol test, a result of 0.04 or greater constitutes a positive result. A confirmation breathalyzer test shall be administered following the initial test in accordance with the procedures in Title 49 Code of Federal Regulations, Part 40.

**Section 10.3. Drug/Alcohol Random Screening.**

Urine analysis shall be administered to test for unlawful drugs and controlled substances. Breathalyzer testing shall be administered to test for alcohol. Employees shall be selected using a random selection process and shall be tested during their normal tour of duty. Employees will be selected for testing from a blind list by the Human Resources Director or his/her designee.

**Section 10.4. Drug/Alcohol Reasonable Suspicion Testing.**

The City Manager, Assistant City Managers, Department Directors, or in the Department Director's absence, the appropriate Assistant Director or Division Director, may direct an employee to submit to a urine analysis and breathalyzer, when there is reasonable suspicion that an employee is under the influence of or using alcohol, drugs or controlled substances on-duty, on an off-duty detail and/or when the employee has caused, contributed to or been involved in an accident (i.e., while operating a City vehicle whether on-duty or off-duty). All reasonable suspicion tests must be coordinated through the Employee Relations Manager who is available 24/7 for this specific function.

**Section 10.5. Positive Drug and/or Alcohol Test Results.**

The parties agree that positive results to random or reasonable suspicion drug or alcohol tests with no legitimate medical explanation, or in violation of the terms and conditions set forth in this Agreement, shall result in the employee's termination from employment. The employee may grieve said discipline through the contractual grievance/arbitration process.

**Section 10.6. Refusal to Submit.**

The parties agree that an employee's refusal to submit (which includes adulterating a specimen or submitting a false specimen) to drug or alcohol testing in accordance with the provisions of this Article shall result in the employee's termination. The employee may grieve said discipline through the contractual grievance/arbitration process.

**Section 10.7 Last Chance Agreement.**

Employees testing positive may be offered the opportunity to enter into a "Last Chance Agreement". Offering an employee a last chance agreement in no way precludes the City from taking concurrent disciplinary action. The Agreement shall require participation in a rehabilitation program, unannounced follow-up testing for a period of two years and such other requirements as set forth by the City. The City reserves the right to terminate an employee without providing him/her with a Last Chance Agreement. Employees under a Last Chance Agreement who test positive shall be terminated from employment with the City and this is not grievable under the grievance procedure. Employees may be given no more than one (1) chance for substance abuse rehabilitation during employment with the City.

**ARTICLE 11**  
**ENTIRE AGREEMENT**

The Union acknowledges that during negotiations resulting in this Agreement, it had the right and opportunity to make demands and proposals with respect to any and all subjects not removed by law from the area of collective bargaining and that the complete understanding and agreements arrived at by the parties after exercise of that right and opportunity are set forth in this Agreement. Therefore, the Union waives the right, during the term of this Agreement, to bargain collectively with respect to any subject or matter referred to or covered in this Agreement, and it particularly waives the right to bargain (except impact bargaining) over the City's exercise or any of its management's rights set forth in Article 6 of this Agreement, e.g., changing work hour schedule, transferring employees, laying off employees, etc.

This Agreement may be amended by mutual agreement of the parties but any amendments must be in writing and signed by duly authorized representatives of the parties before it will be effective.

## **ARTICLE 12**

### **SAVINGS**

If any provisions of this Agreement are subsequently declared by the proper legislative or judicial authority to be unlawful, unenforceable or not in accordance with applicable statutes or ordinances, all other provisions of this Agreement shall remain in full force and effect for the duration of this Agreement. Upon issuance of such a decision or declaration which is not appealed by either party, the parties shall, following a request by either party, negotiate in good faith on a substitute article, section or portion thereof.

**ARTICLE 13**  
**TERM OF CONTRACT**

This agreement shall become effective upon City Commission approval, and shall remain in effect until the 30th day of September 2015. It shall be automatically renewed thereafter from year to year unless either party shall notify the other in writing sixty (60) days prior to the anniversary date that it desires to modify this Agreement. In the event such notice is given, negotiations shall begin no later than thirty (30) days prior to the anniversary date of the Agreement.

Executed by the parties hereto on the 28 day of October, 2013.

COMMUNICATIONS WORKERS OF AMERICA

By: Richard McKinnon  
Richard McKinnon  
CWA President

CITY OF MIAMI BEACH

By: Jimmy L. Morales  
Jimmy L. Morales  
City Manager

Approved by vote of the City Commission, July 17, 2013.

Matti Herrera Bower  
Matti Herrera Bower  
Mayor

ATTEST:

Rafael E. Granado

Rafael E. Granado  
City Clerk



## RATIFICATION

This Agreement was ratified on July 15, 2013 by a majority vote of bargaining unit members represented by Communications Workers of America (CWA), employed by the City of Miami Beach.

Attesting to the above are CWA Local 3178's Negotiation Team members:

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Richard D. McKinnon, President & Chief Negotiator

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Martha Nino, Chairperson, Section 1

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Eduardo Carranza, Chairperson, Section 2

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Warren Green, Chairperson, Section 3

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Alex Ott, Chairperson, Section 4

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Jason Casanova, Chairperson, Section 5

## APPENDIX A

**Exhibit #1  
Classification/Compensation Plan**

<b>Classification</b>	<b>Range</b>
Clerk	H15
Coin Room Money Handler	H16
Clerk Typist	H17
Masonry Helper	H18
Account Clerk I	H20
Admin Aide I	H20
Data Entry Clerk	H20
Duplicating Equip Operator	H20
Permit Clerk I	H20
Police Records Technician	H20
Revenue Processor I	H20
Parking Enforcement Spec I	H22
Account Clerk II	H23
Meter Analyst	H23
Parking Meter Tech I	H23
Permit Clerk II	H23
Property Evidence Tech I	H23
Public Safety Specialist	H23
Revenue Processor II	H23
Admin Aide II	H24
Admin Secretary	H24
Buyer	H24
Engineering Assistant I	H24
Field Inspector I	H24
Financial Specialist I	H24
Painter	H24
Parking Dispatcher	H24
Account Clerk III	H25
Admin Asst I	H25
Communications Operator	H25
Dispatcher Trainee	H25
Parking Enforcement Spec II	H25
Parking Meter Tech II	H25
Code Compliance Officer I	H26
Commission Reporter I	H26

<b>Classification</b>	<b>Range</b>
Complaint Operator II	H26
Crime Analysis Specialist	H26
Financial Specialist II	H26
Carpenter I	H27
Dispatcher	H27
Engineering Assistant II	H27
Mason	H27
Property Evidence Tech II	H27
Carpenter II	H28
Code Compliance Officer II	H28
Commission Reporter II	H28
Financial Specialist III	H28
Police Fleet Specialist	H28
Planning Technician	H29
Engineering Assistant III	H30
Field Inspector II	H30
Crime Scene Technician I	H31
Police Photographer	H31
Air Conditioning Mechanic	H34
Code Compliance Admin.	H34
Crime Scene Technician II	H34
Building Inspector	H34
Electrical Inspector	H34
Electrician	H34
Elevator Inspector	H34
Engineering Inspector	H34
Mechanical Inspector	H34
Plumber	H34
Plumbing Inspector	H34
Pool Guard I	H50
Pool Guard II	H52
Lifeguard I	H52
Lifeguard II	H56
Lifeguard Lt.	H58

<b>Exhibit #2</b>								
<b>Fiscal Year 2012/2013 and Fiscal Year 2013/2014</b>								
<b>Classification/Compensation Plan – Reflects Extension of Ranges for Lifeguard II and Lifeguard Lt.</b>								
<b>(Effective in the 1st full pay period beginning October 2012)</b>								
<b>Range</b>		<b>Min</b>	<b>Max</b>		<b>Range</b>	<b>Min</b>	<b>Max</b>	
H15	Annual	\$31,087.27	\$45,023.65		H32	Annual	\$51,382.53	\$81,178.04
H16	Annual	\$32,019.90	\$46,374.36		H33	Annual	\$53,437.83	\$84,425.16
H17	Annual	\$32,980.50	\$47,765.59		H34	Annual	\$55,575.35	\$87,802.16
H18	Annual	\$33,969.90	\$49,198.57		H35	Annual	\$57,798.36	\$91,314.25
H19	Annual	\$34,989.01	\$50,674.52		H36	Annual	\$60,110.30	\$94,966.82
H20	Annual	\$36,038.68	\$52,194.75		H37	Annual	\$62,514.71	\$98,765.49
H21	Annual	\$37,119.84	\$53,760.58		H50	Annual	\$39,593.97	\$57,900.62
H22	Annual	\$38,233.44	\$55,373.41		H51	Annual	\$40,781.80	\$60,216.64
H23	Annual	\$39,380.43	\$57,034.61		H52	Annual	\$42,005.24	\$62,625.30
H24	Annual	\$40,561.85	\$59,315.99		H53	Annual	\$43,265.40	\$65,130.32
H25	Annual	\$41,778.71	\$61,688.64		H54	Annual	\$44,563.36	\$67,735.53
H26	Annual	\$43,032.07	\$64,156.18		H55	Annual	\$45,900.27	\$70,444.95
H27	Annual	\$44,323.03	\$66,722.43		H56	Annual	\$47,277.19	\$73,262.63
H28	Annual	\$45,652.72	\$69,391.33		H57	Annual	\$48,695.58	\$76,193.27
H29	Annual	\$47,022.30	\$72,166.98		H58	Annual	\$52,162.85	\$79,241.07
H30	Annual	\$48,432.96	\$75,053.66		H59	Annual	\$54,249.22	\$82,410.63
H31	Annual	\$49,885.95	\$78,055.81		H60	Annual	\$56,419.19	\$85,707.04

<b>Exhibit #3</b>								
<b>Fiscal Year 2014/2015</b>								
<b>Classification/Compensation Plan – Reflects 3% COLA October 1, 2014</b>								
<b>(Effective in the 1st full pay period ending in October 2014)</b>								
<b>Range</b>		<b>Min</b>	<b>Max</b>		<b>Range</b>	<b>Min</b>	<b>Max</b>	
H15	Annual	\$32,019.89	\$46,374.36		H32	Annual	\$52,924.01	\$83,613.38
H16	Annual	\$32,980.50	\$47,765.59		H33	Annual	\$55,040.96	\$86,957.91
H17	Annual	\$33,969.92	\$49,198.56		H34	Annual	\$57,242.61	\$90,436.22
H18	Annual	\$34,989.00	\$50,674.53		H35	Annual	\$59,532.31	\$94,053.68
H19	Annual	\$36,038.68	\$52,194.76		H36	Annual	\$61,913.61	\$97,815.82
H20	Annual	\$37,119.84	\$53,760.59		H37	Annual	\$64,390.15	\$101,728.45
H21	Annual	\$38,233.44	\$55,373.40		H50	Annual	\$40,781.79	\$59,637.64
H22	Annual	\$39,380.44	\$57,034.61		H51	Annual	\$42,005.25	\$62,023.14
H23	Annual	\$40,561.84	\$58,745.65		H52	Annual	\$43,265.40	\$64,504.06
H24	Annual	\$41,778.71	\$61,095.47		H53	Annual	\$44,563.36	\$67,084.23
H25	Annual	\$43,032.07	\$63,539.30		H54	Annual	\$45,900.26	\$69,767.60
H26	Annual	\$44,323.03	\$66,080.87		H55	Annual	\$47,277.28	\$72,558.30
H27	Annual	\$45,652.72	\$68,724.10		H56	Annual	\$48,695.51	\$75,460.51
H28	Annual	\$47,022.30	\$71,473.07		H57	Annual	\$50,156.45	\$78,479.07
H29	Annual	\$48,432.97	\$74,331.99		H58	Annual	\$53,727.74	\$81,618.30
H30	Annual	\$49,885.95	\$77,305.27		H59	Annual	\$55,876.70	\$84,882.95
H31	Annual	\$51,382.53	\$80,397.48		H60	Annual	\$58,111.77	\$88,278.25

## APPENDIX B

**CITY OF MIAMI BEACH  
BARGAINING UNIT GRIEVANCE PROCEDURE FORM**

**UNION GRIEVANCE #:** \_\_\_\_\_

**LABOR RELATIONS**

**GRIEVANCE #:** \_\_\_\_\_

*Instructions: Spaces 1-9 should be printed so that the same information appears at all steps. The lower portion is to be completed at each step.*

**1. Bargaining Unit : COMMUNICATIONS WORKERS OF AMERICA (CWA) - LOCAL 3178**

**2. Date Grievant(s) became aware of the alleged violation(s):**

\_\_\_\_ / \_\_\_\_ / \_\_\_\_

**3. Grievant's Name(s) & Classification(s):**

**4. Grievant's Department/Division & Telephone Ext. (\_\_\_\_):**

**5. Grievant's Immediate Supervisor & Telephone Ext. (\_\_\_\_):**

**6. Statement/Nature of Grievance:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**7. Contract Article(s) Alleged Violated:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**8. Suggested Adjustment:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**9. \_\_\_\_\_  
Grievant's Signature**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Union Representative's Signature**

\_\_\_\_\_  
**Date**

**TO BE COMPLETED, SIGNED IN BLUE INK AND PRESENTED AT EACH STEP**

<p>_____</p> <p>_____</p> <p><b>Step 1</b> - Presented by (signature/title)</p> <p>Date: _____</p>	<p><b>Received by</b> (signature/title): _____</p> <p>Date: _____</p>
--	---

**STEP 1 - RESPONSE (FROM DIVISION TO PRESENTER)** \_\_\_\_\_ Grievance Denied (state why):  
 \_\_\_\_\_ Grievance Resolved (state how):  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

(signature/title) \_\_\_\_\_ Date: \_\_\_\_\_ **Received by (Print):** \_\_\_\_\_  
 Date: \_\_\_\_\_

<p>_____</p> <p>_____</p> <p><b>Step 2</b> - Presented by (signature/title)</p> <p>Date: _____</p>	<p>_____</p> <p><b>Received by</b> (signature/title): _____</p> <p>Date: _____</p>
--	--

**STEP 2 - RESPONSE (FROM DEPARTMENT TO PRESENTER)** \_\_\_\_\_ Grievance Denied (state why):  
 \_\_\_\_\_ Grievance Resolved (state how):  
 \_\_\_\_\_  
 \_\_\_\_\_

(signature/title) \_\_\_\_\_ Date: \_\_\_\_\_ **Received by (Print):** \_\_\_\_\_  
 Date: \_\_\_\_\_

<p>_____</p> <p>_____</p> <p><b>Step 3</b> - Presented by (signature/title)</p> <p>Date: _____</p>	<p><b>Received by</b> (signature/title): _____</p> <p>Date: _____</p>
--	---

**STEP 3 - RESPONSE - Reply from City Manager's designee/Labor Relations is attached**

(signature/title) \_\_\_\_\_ Date: \_\_\_\_\_ **Received by (Print):** \_\_\_\_\_  
 Date: \_\_\_\_\_

<p>_____</p> <p><b>ARBITRATION REQUEST/</b>Presented by _____</p> <p>(signature/title) Date: _____</p>	<p><b>Received by</b> (signature/title): _____</p> <p>Date: _____</p>
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